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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 97-45
Table of Allotments,) RM-8961
FM Broadcast Stations.)
(Tylertown, Mississippi)) DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch

OPPOSITION TO MOTION TO STRIKE

Guaranty Broadcasting Corporation ("Guaranty"), by its attorneys, hereby opposes the *Motion to Strike* (the "Motion") filed on April 16, 1998, by TRL Broadcasting Company ("TRL") in the above-captioned proceeding. The Motion is directed at Guaranty's *Petition for Reconsideration and Motion for Stay* (the "Petition") filed herein on February 25, 1998. In brief, the Motion is nothing more than a futile attempt by TRL to side-step the facts and distract the Commission with what amounts to a procedural tirade.¹ It should be summarily denied.

¹ For example, TRL nearly hyperventilates over the fact that the Petition includes a request that the Commission stay the Tylertown allotment's March 2, 1998 effective date until this matter is resolved. Indeed, TRL insists that the Petition is "facially defective" because Guaranty's request for stay was not set forth in a separate pleading pursuant to Section 1.44(e) of the Commission's rules. This inconsequential procedural point and the remedy TRL seeks (i.e., striking the stay request from the Petition) hardly warrants the sense of outrage expressed by TRL - particularly in these circumstances (see below).

In light of the Commission's freeze on the filing of applications for new stations and the Staff's announcement that it would not accept any applications for the Tylertown allotment until the freeze is lifted, Guaranty did not think it necessary to burden the Commission with a

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It is especially ironic that TRL's first response to Guaranty's Petition is not a timely opposition but a procedural motion – filed more than a month and a half after the Petition was served on TRL's counsel – urging that Guaranty's Petition be stricken in its entirety. If anything should be stricken in this proceeding it is TRL's original petition and its subsequent expressions of interest which, as Guaranty has demonstrated, defile the integrity of the Commission's allotment procedures. Guaranty has presented the Commission with direct and substantial evidence that TRL abused the Commission's processes by instigating this rulemaking proceeding and filing expressions of interest which were not bona fide. As such, the public interest requires that the Commission fully consider the important issues first raised in Guaranty's comments and elaborated upon in its Petition.

The principal thrust of TRL's Motion appears to rest on the contention that Guaranty's Petition is based almost entirely on new facts. Yet, in its effort to support this contention, TRL strikes a dissonant chord, arguing that certain facts and statements contained in Guaranty's Petition actually contrast with or differ in some fashion from previous submissions by Guaranty on the same central events. Moreover, with respect to what is referred to as

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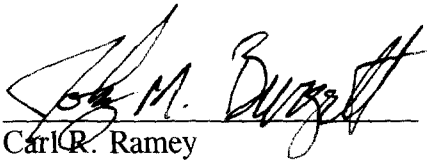
separately filed pleading requesting a stay in this proceeding. See Report and Order in MM Docket No. 97-45, RM-8961 (released January 16, 1998) at ¶ 7; Notice of Proposed Rulemaking in Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses in MM Docket No. 97-234, FCC 97-397 (released November 26, 1997). As the matter is already effectively stayed, a separately filed motion for stay is technically not required at this time. Nevertheless, Guaranty included its stay request in the Petition simply to emphasize the seriousness of the issues raised in the Petition and to anticipate the possibility of a stay request being required. In any event, as we have previously noted, at such time as the general application freeze is lifted, and such need then exists, Guaranty is prepared to file a separate motion requesting a stay that is specifically tailored to this Tylertown allotment proceeding.

Guaranty's "legal showing" (Motion, ¶ 16), it is apparently TRL's position that an additional citation or case reference which provides more detail in support of a previously raised issue concerning an applicant's conduct before the Commission is somehow inappropriate or precluded on reconsideration. Again, TRL is simply wrong.

In sum, TRL's Motion is nothing more than procedural hyperbole intended to distract the Commission's attention away from the significant public interest issue of whether this allotment proceeding was initiated and prosecuted by TRL in good faith. Guaranty's filings in this proceeding demonstrate that it was not and that, in fact, TRL seriously abused the Commission's processes. Guaranty's Petition, therefore, deserves prompt and deliberate consideration. Accordingly, Guaranty respectfully requests that TRL's Motion be denied forthwith.

Respectfully submitted,

**GUARANTY BROADCASTING
CORPORATION**

By: 
Carl R. Ramey
John M. Burgett

Its Attorneys

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

April 22, 1998


CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 1998, I caused copies of the foregoing
Opposition to Motion to Strike to be mailed via first-class postage prepaid mail to the
following:

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

Pamela Blumenthal
Allocations Branch
Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W., 5th Floor
Washington, D.C. 20554

**Henry E. Crawford, Esq.
Law Offices of Henry E. Crawford
1150 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036


Cheryl Petersen

*** Delivery via certified mail, return receipt requested*